

ASSEMBLY BILL

No. 2129

Introduced by Assembly Member Bass

February 18, 2010

An act to amend Sections 18987.7 and 18987.72 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2129, as introduced, Bass. Foster care: residentially based services.

Existing law provides for child welfare services, which are public social services directed toward, among other purposes, protecting and promoting the welfare of all children, including those in foster care placement. Existing law provides for the placement of children in foster care in various settings, including group homes, by foster placement agencies, under the oversight of the State Department of Social Services.

Existing law requires the department to convene a workgroup of designated public and private stakeholders that will develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders into a system of residentially based services, as defined. Existing law requires the department, by January 1, 2011, to provide a copy of the plan developed by the workgroup to the Legislature.

This bill would extend the deadline for providing a copy of the plan developed by the workgroup to the Legislature to January 1, 2014.

Existing law authorizes voluntary agreements between counties and nonprofit agencies to transfer all or part of an existing group home program into a residentially based services program, if specified

conditions are met, but prohibits the agreements from exceeding 5 years from January 1, 2008.

This bill would, instead, prohibit the agreements from exceeding 5 years from January 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18987.7 of the Welfare and Institutions
2 Code is amended to read:

3 18987.7. (a) The State Department of Social Services shall
4 convene a workgroup of public and private nonprofit stakeholders
5 that shall develop a plan for transforming the current system of
6 group care for foster children or youth, and for children with
7 serious emotional disorders (SED), into a system of residentially
8 based services. The stakeholders may include, but not be limited
9 to, representatives of the department and of the State Department
10 of Mental Health, the State Department of Education, the State
11 Department of Alcohol and Drug Programs, and the Department
12 of Corrections and Rehabilitation; county child welfare, probation,
13 mental health, and alcohol and drug programs; local education
14 authorities; current and former foster youth, parents of foster
15 children or youth, and children or youth with SED; private
16 nonprofit agencies operating group homes; children's advocates;
17 and other interested parties.

18 (b) The plan developed pursuant to this chapter shall utilize the
19 reports delivered to the Legislature pursuant to Section 75 of
20 Chapter 311 of the Statutes of 1998 by the Steering Committee
21 for the Reexamination of the Role of Group Care in a Family-Based
22 System of Care in June 2001 and August 2002, and the
23 "Framework for a New System for Residentially-Based Services
24 in California" published in March 2006.

25 (c) In the development, implementation, and subsequent
26 revisions of the plan developed pursuant to subdivision (a), the
27 knowledge and experience gained by counties and private nonprofit
28 agencies through the operation of their residentially based services
29 programs created under voluntary agreements made pursuant to
30 Section 18987.72, including, but not limited to, the results of

1 evaluations prepared pursuant to paragraph (3) of subdivision-(b)
2 (c) of Section 18987.72 shall be utilized.

3 (d) By January 1, ~~2014~~ 2014, the department shall provide a
4 copy of the plan developed by the workgroup pursuant to
5 subdivision (a) to the Legislature. The plan shall include, in
6 addition to other requirements set forth in this chapter, any statutory
7 revisions necessary for its implementation.

8 SEC. 2. Section 18987.72 of the Welfare and Institutions Code
9 is amended to read:

10 18987.72. (a) In order to obtain knowledge and experience
11 with which to inform the process of developing and implementing
12 the plan for residentially based services, required by Section
13 18987.7, the department shall encourage counties and private
14 nonprofit agencies to develop voluntary agreements to test
15 alternative program design and funding models for transforming
16 existing group home programs into residentially based services
17 programs in order to meet the diverse needs of children or youth
18 and families in the child welfare, juvenile justice, and mental health
19 systems.

20 (b) (1) With the approval of the department, any counties
21 participating in the federal Title IV-E waiver capped allocation
22 demonstration project pursuant to Section 18260, at their option,
23 and two other counties may enter into and implement voluntary
24 agreements with private nonprofit agencies to transform all or part
25 of an existing group home program into a residentially based
26 services program.

27 (2) If one or more counties participating in the federal Title
28 IV-E waiver capped allocation demonstration project opts not to
29 enter into a voluntary agreement pursuant to this chapter, the
30 department may select one or more nonwaiver counties. The
31 department may approve up to four counties to participate in the
32 voluntary agreements pursuant to this section.

33 (3) The department shall select participating counties, based on
34 letters of interest submitted to the department from counties, in
35 consultation with the California Alliance of Child and Family
36 Services and the County Welfare Directors Association.

37 (c) Voluntary agreements by counties and nonprofit agencies
38 shall satisfy all of the following requirements:

1 (1) Incorporate and address all of the components and elements
2 for residentially based services described in the “Framework for
3 a New System for Residentially-Based Services in California.”

4 (2) Reflect active collaboration among the private nonprofit
5 agency that will operate the residentially based services program
6 and county departments of social services, mental health, or
7 juvenile justice, alcohol and drug programs, county offices of
8 education, or other public entities, as appropriate, to ensure that
9 children, youth, and families receive the services and support
10 necessary to meet their needs.

11 (3) Provide for an annual evaluation report, to be prepared
12 jointly by the county and the private nonprofit agency. The
13 evaluation report shall include analyses of the outcomes for
14 children and youth, including achievement of permanency, average
15 lengths of stay, and rates of entry and reentry into group care. The
16 evaluation report shall also include analyses of the involvement
17 of children or youth and their families, client satisfaction, the use
18 of the program by the county, the operation of the program by the
19 private nonprofit agency, payments made to the private nonprofit
20 agency by the county, actual costs incurred by the nonprofit agency
21 for the operation of the program, and the impact of the program
22 on state and county AFDC-FC program costs. The county shall
23 send a copy of each annual evaluation report to the director, and
24 the director shall make these reports available to the Legislature
25 upon request.

26 (4) Permit amendments, modifications, and extensions of the
27 agreement to be made, with the mutual consent of both parties and
28 with approval of the department, based on the evaluations described
29 in paragraph (3), and on the experience and information acquired
30 from the implementation and the ongoing operation of the program.

31 (5) Be consistent with the county’s system improvement plan
32 developed pursuant to the California Child Welfare Outcomes and
33 Accountability System.

34 (d) (1) Upon a county’s request, the director may waive child
35 welfare regulations regarding the role of counties in conjunction
36 with private nonprofit agencies operating residentially based
37 services programs to enhance the development and implementation
38 of case plans and the delivery of services in order to enable a
39 county and a private nonprofit agency to implement an agreement
40 described in subdivision (b). Nothing in this section shall be

1 construed to supersede the requirements set forth in subdivision
2 (c) of Section 16501.

3 (2) Notwithstanding Sections 11460 and 11462, or any other
4 law or regulation governing payments under the AFDC-FC
5 program, upon the request of one or more counties, and in
6 accordance with the voluntary agreements as described in
7 subdivision (b), the director may also approve the use of up to a
8 total of five alternative funding models for determining the method
9 and level of payments that will be made under the AFDC-FC
10 program to private nonprofit agencies operating residentially based
11 services programs in lieu of using the rate classification levels and
12 schedule of standard rates provided for in Section 11462. These
13 alternative funding models may include, but shall not be limited
14 to, the use of cost reimbursement, case rates, per diem or monthly
15 rates, or a combination thereof. An alternative funding model shall
16 do all of the following:

17 (A) Support the values and goals for residentially based services,
18 including active child and family involvement, permanence,
19 collaborative decisionmaking, and outcome measurement.

20 (B) Ensure that quality care and effective services are delivered
21 to appropriate children or youth at a reasonable cost to the public.

22 (C) Ensure that payment levels are sufficient to permit the
23 private nonprofit agencies operating residentially based services
24 programs to provide care and supervision, social work activities,
25 parallel predischarge community-based interventions for families,
26 and followup postdischarge support and services for children and
27 their families, including the cost of hiring and retaining qualified
28 staff.

29 (D) Facilitate compliance with state requirements and the
30 attainment of federal and state performance objectives.

31 (E) Control overall program costs by providing incentives for
32 the private nonprofit agencies to use the most cost-effective
33 approaches for achieving positive outcomes for the children or
34 youth and their families.

35 (F) Facilitate the ability of the private nonprofit agencies to
36 access other available public sources of funding and services to
37 meet the needs of the children or youth placed in their residentially
38 based services programs, and the needs of their families.

39 (G) Enable the combination of various funding streams
40 necessary to meet the full range of services needed by foster

1 children or youth in residentially based services programs, with
2 particular reference to funding for mental health treatment services
3 through the Medi-Cal Early and Periodic Screening, Diagnosis,
4 and Treatment program.

5 (H) Maximize federal financial participation, and mitigate the
6 loss of federal funds, while ensuring the effective delivery of
7 services to children or youth and families, and the achievement of
8 positive outcomes.

9 (I) Provide for effective administrative oversight and
10 enforcement mechanisms in order to ensure programmatic and
11 fiscal accountability.

12 (3) A waiver granted by the director pursuant to paragraph (1),
13 or an approval of an alternative funding model pursuant to
14 paragraph (2), shall be applicable only to the development,
15 implementation, and ongoing operation of a residentially based
16 services program and related county activities provided under the
17 terms of the agreement and for the duration of the agreement, and
18 shall be granted only when all of the following apply:

19 (A) The agreement promises to offer a worthwhile test related
20 to the development, implementation, and ongoing operation of a
21 residentially based services program as described in this chapter.

22 (B) Existing regulatory provisions or the existing AFDC-FC
23 payment requirements, or both, impose barriers for the effective,
24 efficient, and timely implementation of the agreement.

25 (C) The requesting county proposes to monitor the agreement
26 for compliance with the terms of the waiver or the alternative
27 funding model, or both.

28 (D) Neither the waiver nor the alternative funding model will
29 result in an increase in the costs to the General Fund for payments
30 under the AFDC-FC program, measured on an annual basis. This
31 would permit higher AFDC-FC payments to be made when
32 children or youth are initially placed in a residentially based
33 services program, with savings to offset these higher costs being
34 achieved through shorter lengths of stay in foster care, or a
35 reduction of reentries into foster care, as the result of providing
36 predischarge support and postdischarge services to the children or
37 youth and their families.

38 (e) In addition to the requirements set forth in subdivision (c),
39 the voluntary agreements shall do all of the following:

1 (1) Provide that, to the extent that some of the care, services,
2 and other activities associated with a residentially based services
3 program operated under an agreement described in subdivision
4 (b) are not eligible for federal financial participation as foster care
5 maintenance payments under Part E (commencing with Section
6 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec.
7 670 et seq.), but may be eligible for federal financial participation
8 as administration or training, or may be eligible for federal financial
9 participation under other programs, including, but not limited to,
10 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396
11 et seq.), the appropriate state departments shall take measures to
12 obtain that federal funding.

13 (2) Provide that, prior to approving any waiver or alternative
14 funding model pursuant to subdivision (d), the director shall make
15 a determination that the design of the residentially based services
16 program to be operated under the agreement described in
17 subdivision (b) would ensure the health and safety of children or
18 youth to be served.

19 (f) Agreements entered into pursuant to this section shall be
20 valid for a period not to exceed five years from January 1, ~~2008~~
21 *2010*, unless a later enacted statute extends or removes this
22 limitation.

23 (g) The department shall report during the legislative budget
24 hearings on the status of any county agreements entered into
25 pursuant to subdivision (b), and on the development of statewide
26 residentially based services programs.